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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 41

SHORT TITLE: Statute of Limitations for Certain Sex Crimes

SPONSOR: Charley/Steinborn/Munoz

LAST ORIGINAL
UPDATE: _____ **DATE:** 1/31/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund
Total	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the Courts

Administrative Office of the District Attorneys

Law Offices of the Public Defender

Sentencing Commission

Corrections Department

Department of Public Safety

SUMMARY

Synopsis of Senate Bill 41

Senate Bill 41 (SB41) proposes amendments to New Mexico's criminal procedure statutes to remove the statute of limitations for prosecuting certain sexual offenses committed against children. The bill amends Section 30-1-8 NMSA 1978, which governs time limitations for commencing criminal prosecutions, by adding a new Subsection H. This subsection specifies that there is no time limitation for commencing prosecution of criminal sexual penetration in the second degree, as defined in Section 30-9-11 NMSA 1978, when the alleged victim was under eighteen years of age at the time of the offense. Under existing law, prosecutions for second-degree felonies must generally be initiated within six years from the date of the alleged offense. The amendment in SB41 creates an express exception to that limitation.

In addition to modifying Section 30-1-8, SB41 repeals Section 30-1-9.2 NMSA 1978 (Laws

2003, Chapter 257, Section 1), which currently delays the commencement of the statute of limitations in certain cases of criminal sexual penetration or contact against minors until the victim reaches the age of eighteen. The repeal of this section removes the tolling provision and is consistent with the bill's objective to eliminate the statute of limitations entirely for the specified offenses involving child victims.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals incarcerated or the length of time they remain incarcerated can carry moderate to significant fiscal impacts. While SB41 does not create new criminal offenses or modify sentencing ranges, it removes the statute of limitations for several felony sexual offenses, making them indefinitely prosecutable. As a result, this change could lead to additional prosecutions, including cases that previously would have been barred by time limits, and potentially increase the number of individuals sentenced to prison.

The Corrections Department (NMCD) notes that any growth in prison admissions could gradually increase incarceration levels over time, though the immediate fiscal impact may be limited. Under current conditions, the average cost to incarcerate a single inmate in FY25 was \$61.5 thousand annually. However, due to the fixed nature of many correctional system costs, the Legislative Finance Committee estimates a marginal cost of \$27.2 thousand per additional inmate per year across all facilities. To the extent that SB41 results in more individuals entering prison and fewer leaving in a given period—particularly if applied to cases from prior years—overall prison populations could rise gradually, contributing to long-term cost growth for the state.

In addition to potential increases in incarceration, the Department of Public Safety anticipates additional operational costs for locating, reviewing, and processing historical case files. Delayed prosecutions may require extensive records management, updated systems to verify offense dates versus conviction dates, and expanded compliance oversight in the Sex Offender Registry. These activities could increase staff workload and require modernizing the system to manage older or incomplete data effectively.

Costs beyond incarceration—such as impacts on the judiciary, law enforcement, and public defense—are not quantified in this analysis but could also be moderate. Agencies report that reopening older cases may require more complex litigation, longer trials, and greater legal scrutiny due to evidentiary degradation over time. Indigent defendants would be entitled to public defender services, which could increase caseloads on the Law Offices of the Public Defender.

SIGNIFICANT ISSUES

SB41 alters the statutory framework for criminal prosecutions by removing time-based limitations for a range of felony sexual offenses, including second, third, and fourth degree criminal sexual penetration and criminal sexual contact of a minor. While statutes of limitations

are typically intended to balance the interests of justice, including the preservation of evidence and defendants' ability to mount a defense, SB41 eliminates those time constraints for these offenses, regardless of when they occurred. As a result, the bill may lead to increased reliance on historical evidence, including testimony, physical records, and forensic material that may be decades old. Agencies note that this could raise legal and procedural complexities in case preparation and adjudication, particularly when original records are incomplete or degraded.

The repeal of Section 30-1-9.2 NMSA 1978 removes the statutory provisions governing tolling in cases involving DNA evidence and unresolved suspects. This change reflects the bill's broader approach of eliminating limitations altogether rather than delaying their start. SB41 also revises Section 30-1-9.1 NMSA 1978 to clarify that tolling provisions for abandonment or abuse of a child apply only until the victim reaches age 18 or until the violation is reported to law enforcement, whichever is earlier, further aligning existing statutes with the bill's underlying structure.

Stakeholder feedback suggests that implementation may require additional interagency coordination to clarify which cases are newly actionable and to determine procedures for handling long-dormant files. While the bill does not revive cases for which the statute of limitations has already expired, it permits the prosecution of offenses that were previously time-barred but were still within the statutory limits when the bill takes effect. This may necessitate legal review to determine retroactivity parameters and ensure consistency with constitutional protections.

Lastly, the extended prosecutorial window may affect patterns of case filings and litigation strategy in future years, potentially shifting how and when evidence is collected, preserved, and contested in court. While these procedural implications do not carry a direct fiscal impact, they represent a shift in the legal environment for both prosecution and defense in sexual offense cases involving child victims.

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